

1779-1780

AN
ADDRESS
OF THE
CONVENTION,
FOR FRAMING
A NEW
Constitution of Government,
FOR THE STATE OF
Massachusetts-Bay,
TO THEIR
CONSTITUENTS.

B O S T O N :

PRINTED BY WHITE AND ADAMS, NEXT DOOR
TO THE CROMWELL'S-HEAD TAVERN, IN SCROCK
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1780

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A D D R E S S &c.

FRIENDS and COUNTRYMEN,

HA V I N G had your Appointment and Instruction, we have undertaken the arduous Task of preparing a civil Constitution for the People of the Massachusetts Bay ; and we now submit it to your candid Consideration. It is your *Interest* to revise it with the greatest Care and Circumspection, and it is your undoubted *Right*, either to propose such Alterations and Amendments as you shall judge proper, or, to give it your own Sanction in its present Form, or, totally to reject it.

In framing a Constitution, to be adapted as far as possible to the Circumstances of Posterity
yet

yet unborn, you will conceive it to be exceedingly difficult, if not impracticable, to succeed in every part of it, to the full Satisfaction of all.

Could the *whole Body* of the People have Conven'd for the same Purpose, there might have been equal Reason to conclude, that a perfect Unanimity of Sentiments would have been an Object not to be obtain'd. In a Business so universally interesting, we have endeavor'd to act as became the Representatives of a wise, understanding and free People; and, as we have Reason to believe you would *yourselves* have done, we have open'd our Sentiments to each other with Candor, and made such mutual Concessions as we could consistently, and without marring the only Plan, which in our most mature Judgment we can at present offer to you.

THE Interest of the Society is common to all its Members. The great Enquiry is, where in this Common Interest consists. In determining this Question, an Advantage may arise from a Variety of Sentiments offer'd to public Examination concerning it. But wise Men are not apt to be obstinately tenacious of their own Opinions: They will always pay a due Re-
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gard to those of other Men and keep their minds open to Conviction. We conceive; that in the present Instance, by accommodating ourselves to each other, and individually yielding particular and even favorite Opinions of smaller moment, to essential Principles, and Considerations of general Utility, the public Opinion of the Plan now before you may be consolidated. — But without such mutual Condescension in unimportant Matters, we may almost venture to predict, that we shall not soon, if ever, be bless'd with such a Constitution as those are intitled to, who have struggled hard for Freedom and Independence. You will permit us on this Occasion, just to hint to you our own Apprehension, that there may be amongst us, some Persons disaffected to that great Cause for which we are contending, who may be secretly instructed by our common Enemy to divide and distract us ; in hopes of preventing our Union in any Form of Government whatever, and by this Means of depriving us of the most honorable Testimony, as well as the greatest Security of our Freedom and Independence. — If there be such Men, it is our Wisdom to mark them, and guard ourselves against their Designs.

We

We may not expect to agree in a perfect System of Government : This is not the Lot of Mankind. The great End of Government, is, to promote the Supreme Good of human Society : Every social Affection should therefore be interested in the Forming of a Government and in judging of one when it is Formed. Would it not be prudent for Individuals to cast out of the Scale, smaller Considerations and fall in with an evident Majority, unless in Matters in which their Consciences shall constrain them to determine otherwise ? Such a Sacrifice, made for the sake of Union, would afford a strong Evidence of public Affection ; and Union, strengthened by the social Feeling, would promise a greater Stability to any Constitution, and, in its operation, a greater Degree of Happiness to the Society. It is here to be remembered, that, on the Expiration of Fifteen Years a new Convention may be held, in order that such Amendments may be made in the Plan you may now agree to, as Experience, that best Instructor, shall then point out to be expedient or necessary.

A GOVERNMENT without Power to exert itself, is at best, but an useless Piece of Machinery.
It

It is probable, that for the want of Energy, it would speedily lose even the Appearance of Government, and sink into Anarchy. Unless a due Proportion of Weight is given to each of the Powers of Government, there will soon be a Confusion of the whole. An Overbearing of any one of its Parts on the rest, would destroy the Balance and accelerate its Dissolution and Ruin : And, a Power without *any* Restraint is Tyranny. The Powers of Government must then be balanced : To do this accurately requires the highest Skill in political Architecture. Those who are to be invested with the Administration, should have such Powers given to them, as are requisite to render them useful in their respective Places ; and such *Checks* should be added to every Branch of Power as may be sufficient to prevent its becoming formidable and injurious to the Common wealth. If we have been so fortunate as to succeed in this point of the greatest Importance, our Happiness will be compleat, in the Prospect of having laid a good Foundation for many Generations. *You* are the Judges how far we have succeeded ; and whether we have raised our Superstructure, agreeably to our profess'd Design

Ag'n; upon the Principles of a *Free Common
Wealth.*

In order to assist your Judgments, we have thought it necessary, briefly to explain to you the Grounds and Reasons upon which we have formed our Plan. In the third article of the Declaration of Rights, we have, with as much Precision as we were capable of, provided for the free exercise of *the Rights of Conscience*: We are very sensible that our Constituents hold those Rights infinitely more valuable than all others; and we flatter ourselves, that while we have considered Morality and the public Worship of GOD, as important to the happiness of Society, we have sufficiently guarded the rights of Conscience from every possible infringement. This Article underwent long debates, and took Time in proportion to its importance; and we feel ourselves peculiarly happy in being able to inform you, that though the debates were managed by persons of various denominations, it was finally agreed upon with much more Unanimity than usually takes place in disquisitions of this Nature. We wish you to consider the Subject with Candor, and Attention. Surely it
would

would be an affront to the People of Massachusetts Bay to labour to convince them, that the Honor and Happiness of a People depend upon Morality ; and that the Public Worship of GOD has a tendency to inculcate the Principles thereof, as well as to preserve a People from forsaking Civilization, and falling into a state of Savage barbarity.

In the form now presented to you, there are no more Departments of Government than are absolutely necessary for the free and full Exercise of the Powers thereof. The House of Representatives is intended as the Representative of the Persons and the Senate, of the property of the Common Wealth. These are to be annually chosen, and to sit in separate Bodies, each having a Negative upon the Acts of other. This Power of a Negative in each must ever be necessary ; for all Bodies of Men, assembled upon the same occasion and united by one common Interest of Rank, Honor, or Estate, are liable, like an individual, to mistake bias and prejudice. These two Houses are vested with the Powers of Legislation; and are to be chosen by the Male Inhabitants who are Twenty one
Years

Years of age, and have a Freehold of the small annual Income of Three Pounds or Sixty Pounds in any Estate. Your Delegates considered that Persons who are Twenty one Years of age, and have no Property, are either those who live upon a part of a Paternal estate, expecting the Fee thereof, who are but just entering into business, or those whose Idleness of Life and profligacy of manners will forever bar them from acquiring and possessing Property. And we will submit it to the former Class, whether they would not think it safer for them to have their right of Voting for a Representative suspended for small space of Time, than forever hereafter to have their Privileges liable to the control of Men, who will pay less regard to the Rights of Property because they have nothing to loose.

THE Power of Revising, and stating objections to any Bill or Resolve that shall be passed by the two Houses, we were of opinion ought to be lodged in the hands of some *one* person ; not only to preserve the Laws from being unsystematical and inaccurate, but that a due balance may be preserved in the three capital powers of Government. The Legislative, the Judicial and

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Executive Powers naturally exist in every Government: And the History of the rise and fall of the Empires of the World affords us ample proof, that when the same Man or Body of Men enact, interpret and execute the Laws, property becomes too precarious to be valuable, and a People are finally borne down with the force of corruption resulting from the Union of those Powers. The Governor is emphatically the Representative of the whole People, being chosen not by one Town or County, but by the People at large. We have therefore thought it safest to rest this Power in his hands; and as the Safety of the Commonwealth requires, that there should be one Commander in Chief over the Militia, we have given the Governor that Command for the same reason, that we thought him the only proper Person that could be trusted with the power of revising the Bills and Resolves of the General Assembly; but the People may if they please choose their own Officers.

You will observe that we have resolved, that Representation ought to be founded on the Principle of equality; but it cannot be understood thereby that each Town in the Commonwealth shall have

Weight

Weight and importance in a just proportion to its Numbers and property. An exact Representation would be unpracticable even in a System of Government arising from the State of Nature, and much more so in a state already divided into nearly three hundred Corporations. But we have agreed that each Town having One hundred and fifty Rateable Poles shall be entitled to send one Member, and to prevent an advantage arising to the greater Towns by their numbers, have agreed that no Town shall send two unless it hath three hundred and seventy five Rateable Poles, and then the still larger Towns are to send one Member for every two hundred and twenty-five Rateable Polls over and above Three hundred and seventy-five. This method of calculation will give a more exact Representation when applied to all the Towns in the State than any that we could fix upon.

We have however digressed from this Rule in admitting the small Towns now incorporated to send Members. There are but a few of them which will not from their continual increase, be able to send one upon the above plan in a very little Time. And the few who will never probably have that number have been heretofore in the exercise of this privilege, and will now be very unwilling to relinquish it.

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To prevent the governor from abusing the Power which is necessary to be put into his hands we have provided that he shall have a Council to advise him at all Times and upon all important Occasions, and he with the advice of his Council is to have the Appointment of Civil Officers. This was very readily agreed to by your Delegates, and will undoubtedly be agreeable to their Constituents; for it those Officers who are to interpret and execute the Laws are to be dependant upon the Election of the people it must forever keep them under the Controul of ambitious, artful and interested men, who can obtain most Votes for them.—If they were to be Appointed by the Two Houses or either of them, the persons appointing them would be too numerous to be accountable for putting weak or wicked Men into Office. Besides the House is designed as the Grand Inquest of the Common Wealth, and are to impeach Officers for male Conduct, the Senate are to try the Merits of such impeachments; it would be therefore unfit that they should have the Creation of those Officers which the one may impeach and the other remove: but we conceive there is the greatest propriety in Vesting the Governor with this Power, he being as we have before observed,

the

the compleat representative of all the People, and at all Times liable to be impeached by the House before the Senate for male Administration. And we would here observe that all the Powers which we have given the Governor are necessary to be lodged in the hands of one Man, as the General of the Army and first Magistrate; and none can be entitled to it but he who has the Annual and United Suffrages of the whole Common Wealth.

You will readily conceive it to be necessary for your own Safety, that your Judges should hold their Offices during good behaviour; for Men who hold their places upon so precarious a Tenure as annual or other frequent Appointments will never so assiduously apply themselves to study as will be necessary to the filling their places with dignity. Judges should at all Times feel themselves independent and free.

Your Delegates have further provided that the Supreme Judicial Department, by fixed and ample Salaries, may be enabled to devote themselves wholly to the Duties of their important Office. And for this reason, as well as to keep this Department separate from the others in Government have excluded them from a Seat in the Legislature; and when our Constituents consider that the final Decision

oision of their Lives and Property must be had in this Court, we conceive they will universally approve the measure. The Judges of Probate and those other officers whose presence is always necessary in their respective Counties are also excluded.

We have attended to the inconveniences suggested to have arisen from having but one Judge of Probate in each County; but the erecting and altering Courts of Justice being a mere matter of Legislation, we have left it with your future Legislature to make such Alterations as the Circumstances of the several Counties may require.

Your Delegates did not conceive themselves to be vested with Power to set up one Denomination of Christians above another; for Religion must at all Times be a matter between GOD and individuals: But we have, nevertheless, found ourselves obliged by a Solemn Test, to provide for the exclusion of those from Offices who will not disclaim those Principles of Spiritual Jurisdiction which Roman Catholicks in some Countries have held, and which are subversive of a free Government established by the People. We find it necessary to continue the former Laws, and Modes of proceeding in Courts of Justice, until a future

ture Legislature shall alter them : For, unless this is done, the title to Estates will become precarious, Law-suits will be multiplied, and universal Confusion must take place. And least the Commonwealth for want of a due Administration of Civil Justice should be involved in Anarchy, we have proposed to continue the present Magistrates and Officers until new Appointments shall take place.

Thus we have, with plainness and sincerity, given you the Reasons upon which we founded the principal parts of the System-laid before you, which appeared to us as most necessary to be explained : And we do most humbly beseech the Great Disposer of all Events, that we and our Posterity may be established in and long enjoy the Blessings of a well-ordered and free Government.

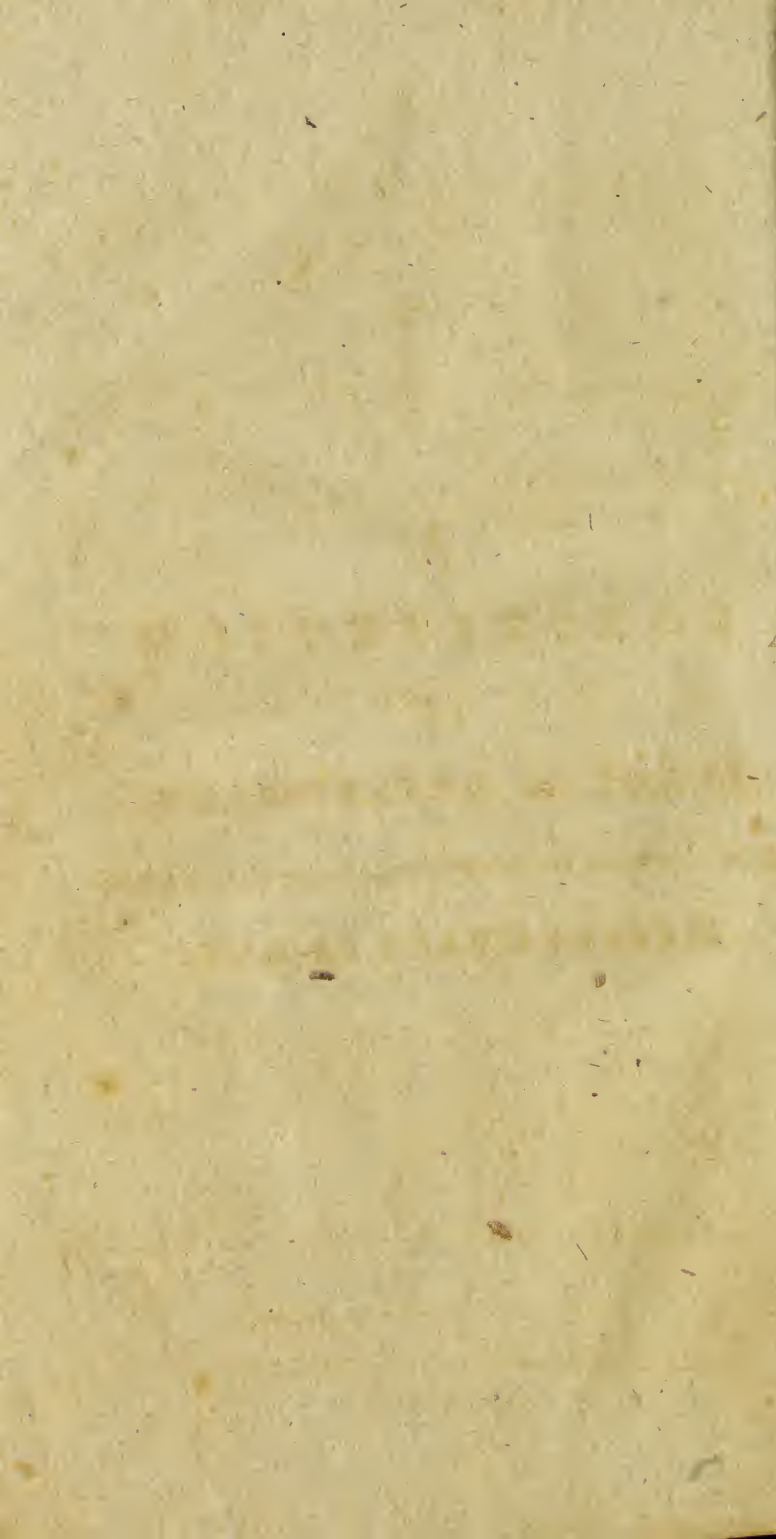
In the Name, and pursuant to a Resolution of the Convention,

JAMES BOWDOIN, *President.*

Attest-

SAMUEL BARRETT, *Secretary.*





C O N S T I T U T I O N

O R

F R A M E O F G O V E R N M E N T,

Agreed upon by the **D E L E G A T E S** of the People of the **S T A T E** of

M A S S A C H U S E T T S - B A Y,

CONSTITUTION

of

THE STATE OF MASSACHUSETTS

As amended by the People of the State

MASSACHUSETTS

CONSTITUTION

FRAME OF GOVERNMENT,

Agreed upon by the DELEGATES of the People of the State of
MASSACHUSETTS-BAY,

I N

C O N V E N T I O N,

Began and held at *Cambridge* on the First of *September*, 1779,

A N D

Continued by Adjournments to the Second of *March*, 1780;

To be submitted to the Revision of their Constituents, in Order
to the compleating of the same, in Conformity to their Amend-
ments, at a Session to be held for that Purpose, on the First
Wednesday in *June* next ensuing.

BOSTON: STATE of MASSACHUSETTS-BAY,

Printed by BENJAMIN EDWARDS & SONS, in State-Street,

M,DCC,LXXX,

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A Constitution or Form of Government for the Commonwealth of MASSACHUSETTS.

P R E A M B L E.

THE end of the institution, maintenance and administration of government, is to secure the existence of the body-politic ; to protect it ; and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life : And whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

THE body-politic is formed by a voluntary association of individuals : It is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a Constitution of Government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them ; that every man may, at all times, find his security in them.

WE, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprize, of entering into an original, explicit, and solemn compact with each other ; and of forming a new Constitution of Civil Government, for ourselves and posterity ; and devoutly imploring His direction in so interesting a design, DO agree upon, ordain and establish, the following *Declaration of Rights, and Frame of Government*, as the **CONSTITUTION of the COMMONWEALTH of MASSACHUSETTS.**

P A R T THE FIRST.

A DECLARATION of the RIGHTS
of the Inhabitants of the Common-
wealth of MASSACHUSETTS.

Art. **A**LL men are born free and equal, and have
I. certain natural, essential, and unalienable
rights ; among which may be reckoned the right
of enjoying and defending their lives and liberties ;
that of acquiring, possessing, and protecting pro-
perty ; in fine, that of seeking and obtaining their
safety and happiness.

II. IT is the right as well as the duty of all men
in society, publicly, and at stated seasons, to wor-
ship the SUPREME BEING, the great creator and
preserver of the universe. And no subject shall be
hurt, molested, or restrained, in his person, liberty,
or estate, for worshiping GOD in the manner and
season most agreeable to the dictates of his own
conscience ; or for his religious profession or senti-
ments ; provided he doth not disturb the public
peace, or obstruct others in their religious worship.

III. As the happiness of a people, and the good
order and preservation of civil government, essenti-
ally depend upon piety, religion and morality ; and
as these cannot be generally diffused through a com-
munity, but by the institution of the public wor-
ship of GOD, and of public instructions in piety,
religion and morality : Therefore, to promote their
happiness, and to secure the good order and preser-
vation of their government, the people of this Com-
monwealth have a right to invest their legislature
with

with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expence, for the institution of the public worship of GOD, and for the support and maintenance of public protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily.

AND the people of this Commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

PROVIDED notwithstanding, that the several towns, parishes, precincts, and other bodies-politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

AND all monies paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said monies are raised.

AND every denomination of christians, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection

section of the law : And no subordination of any one sect or denomination to another shall ever be established by law.

IV. THE people of this Commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent state ; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

V. ALL power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public ; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, law-giver, or judge, is absurd and unnatural.

VII. GOVERNMENT is instituted for the common good ; for the protection, safety, prosperity and happiness of the people ; and not for the profit, honor, or private interest of any one man, family, or class of men : Therefore the people alone have an incontestible, unalienable, and indefeasible right to institute government ; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

VIII. IN order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life ; and to fill up vacant places by certain and regular elections and appointments.

IX. ALL elections ought to be free ; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

X. EACH individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expence of this protection ; to give his personal service, or an equivalent, when necessary : But no part of the property of any individual, can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people : In fine, the people of this Commonwealth are not controulable by any other laws, than those to which their constitutional representative body have given their consent. And whenever the public exigencies require, that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

XI. EVERY subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without

out being obliged to purchase it ; compleatly, and without any denial ; promptly, and without delay ; conformably to the laws.

XII. No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him ; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs, that may be favourable to him ; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

AND the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army, and navy, without trial by jury.

XIII. IN criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. EVERY subject has a right to be secure from all unreasonable searches, and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation ; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or ob-

jects of search, arrest, or seizure : and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

XV. IN all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherwise used and practiced, the parties have a right to a trial by a jury ; and this method of procedure shall be held sacred, unless, in causes arising on the high-seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it.

XVI. THE liberty of the press is essential to the security of freedom in a state : it ought not, therefore, to be restrained in this Commonwealth.

XVII. THE people have a right to keep and to bear arms for the common defence. And as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature ; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

XVIII. A FREQUENT recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government : The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives : And they have a right to require of their law-givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

XIX. THE

XIX. THE people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives; and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

XX. THE power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXI. THE freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XXII. THE legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

XXIV. LAWS made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceeding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI. No

XXVI. No magistrate or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXVII. IN time of peace no soldier ought to be quartered in any house without the consent of the owner; and in time of war such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

P A R T THE SECOND.

The Frame of Government.

THE people inhabiting the territory formerly called the Province of Massachusetts-Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body-politic or state, by the name of **THE COMMONWEALTH OF MASSACHUSETTS.**

C H A P T E R I.

The Legislative Power.

S E C T I O N I.

The General Court.

ART. I. THE department of legislation shall be formed by two branches, a *Senate* and *House of Representatives* : each of which shall have a negative on the other.

THE legislative body shall assemble every year on the last Wednesday in May, and at such other times as they shall judge necessary ; and shall dissolve and be dissolved on the day next preceeding the said last Wednesday in May ; and shall be stiled, **THE GENERAL COURT of MASSACHUSETTS.**

II. No bill or resolve of the Senate or House of Representatives shall become a law, and have force as such, until it shall have been laid before the Gover-

nor for his revisal : And if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the Senate or House of Representatives, in which soever the same shall have originated ; who shall enter the objections sent down by the Governor, at large, on their records, and proceed to reconsider the said bill or resolve : But if after such reconsideration, two thirds of the said Senate or House of Representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two thirds of the members present, it shall have the force of a law : But in all such cases, the votes of both houses shall be determined by yeas and nays ; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the Commonwealth.

AND in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the Governor within five days after it shall have been presented, the same shall have the force of a law.

III. THE General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between

or concerning persons inhabiting, or residing, or brought within the same ; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixt ; and for the awarding and making out of execution thereupon : To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

IV. AND further, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without ; so as the same be not repugnant or contrary to this Constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof ; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said Commonwealth ; the election and constitution of whom are not hereafter in this Form of Government otherwise provided for ; and to set forth the several duties, powers and limits, of the several civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this Constitution ; and to

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impose

impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth ; and also to impose, and levy, reasonable duties and excises, upon any produce, goods, wares, merchandize, and commodities whatsoever, brought into, produced, manufactured, or being within the same ; to be issued and disposed of by warrant, under the hand of the Governor of this Commonwealth for the time being, with the advice and consent of the Council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the the subjects thereof, according to such acts as are or shall be in force within the same.

AND while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised ; in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth taken anew once in every ten years at the least, and as much oftener as the General Court shall order.

C H A P T E R I.

S E C T I O N II.

S E N A T E.

Art. I. **T**HERE shall be annually elected by the freeholders and other inhabitants of this Commonwealth, qualified as in this Constitution is provided,

provided, forty persons to be Counsellors and Senators for the year ensuing their election ; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the General Court for that purpose : And the General Court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts ; and timely make known to the inhabitants of the Commonwealth, the limits of each district, and the number of Counsellors and Senators to be chosen therein ; provided that the number of such districts shall be never less than thirteen ; and that no district be so large as to entitle the same to choose more than six Senators.

AND the several counties in this Commonwealth shall, until the General Court shall determine it necessary to alter the said districts, be districts for the choice of Counsellors and Senators, (except that the counties of Duke's County and Nantucket shall form one district for that purpose) and shall elect the following number for Counsellors and Senators,

viz. Suffolk	Six	York	Two
Essex	Six	Duke's County	} One
Middlesex	Five	and Nantucket	
Hampshire	Four	Worcester	Five
Plymouth	Three	Cumberland	One
Barnstable	One	Lincoln	One
Bristol	Three	Berkshire	Two

II. THE Senate shall be the first branch of the legislature ; and the Senators shall be chosen in the following manner, viz. There shall be a meeting on the first Monday in April annually, forever, of the inhabitants of each town in the several counties

of this Commonwealth; to be called by the Selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be Senators and Counsellors: And at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the Commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the Senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this State, in that town, district or plantation, where he dwelleth, or hath his home.

THE Selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for Senators, and shall sort and count them in open town meeting, and in presence of the Town Clerk, who shall make a fair record, in presence of the Selectmen, and in open town-meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the Selectmen and the Town-Clerk, and shall be sealed up, directed to the Secretary of the Commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the Town-Clerk of such towns, to the Sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May

annually;

annually ; or it shall be delivered into the Secretary's office seventeen days at least before the said last Wednesday in May ; and the Sheriff of each county shall deliver all such certificates by him received into the Secretary's office seventeen days before the said last Wednesday in May.

AND the inhabitants of plantations unincorporated, qualified as this Constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for Counsellors and Senators in the plantations where they reside, as town inhabitants have in their respective towns ; and the plantation-meetings for that purpose shall be held annually on the same first Monday in April, at such place in the plantations respectively, as the Assessors thereof shall direct ; which Assessors shall have like authority for notifying the electors, collecting and returning the votes, as the Selectmen and Town-Clerks have in their several towns, by this Constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the Assessors of an adjacent town, shall have the privilege of giving in their votes for Counsellors and Senators, in the town where they shall be assessed, and be notified of the place of meeting by the Selectmen of the town where they shall be assessed, for that purpose accordingly.

III. AND that there may be a due convention of Senators on the last Wednesday in May annually, the Governor, with five of the Council, for the time being, shall, as soon as may be, examine the returned copies of such records ; and fourteen days before

before the said day he shall issue his summons to such persons as shall appear to be chosen by a majority of voters, to attend on that day, and take their seats accordingly : Provided nevertheless, that for the first year the said returned copies shall be examined by the President and five of the Council of the former Constitution of Government ; and the said President shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

IV. ~~THE~~ Senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the Constitution ; and shall, on the said last Wednesday in May annually, determine and declare who are elected by each district, to be Senators by a majority of votes : And in case there shall not appear to be the full number of Senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. The members of the House of Representatives, and such Senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of Senators wanting, if there be so many voted for ; and out of these, shall elect by ballot a number of Senators sufficient to fill up the vacancies in such district : And in this manner all such vacancies shall be filled up in every district of the Commonwealth ; and in like manner all vacancies in the Senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.

V. PROVIDED

V. PROVIDED nevertheless, that no person shall be capable of being elected as a Senator, who is not seized in his own right of a freehold within this Commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and who has not been an inhabitant of this Commonwealth for the space of five years immediately preceeding his election, and at the time of his election, he shall be an inhabitant in the district, for which he shall be chosen.

VI. THE Senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

VII. THE Senate shall choose its own President, appoint its own officers, and determine its own rules of proceedings.

VIII. THE Senate shall be a court with full authority to hear and determine all impeachments made by the House of Representatives, against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment, the members of the Senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office, and disqualification to hold or enjoy any place of honour, trust, or profit, under this Commonwealth : But the party so convicted, shall be nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

IX. NOT less than sixteen members of the Senate shall constitute a quorum for doing business.

CHAPTER I.

SECTION III.

House of Representatives.

Art. I. **T**HERE shall be in the Legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

II. **AND** in order to provide for a representation of the citizens of this Commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty rateable polls; may elect one Representative: Every corporate town, containing three hundred and seventy-five rateable polls, may elect two Representatives: Every corporate town, containing six hundred rateable polls, may elect three Representatives; and proceeding in that manner, making two hundred and twenty-five rateable polls the mean increasing number for every additional Representative.

PROVIDED nevertheless, that each town now incorporated, not having one hundred and fifty rateable polls, may elect one representative: but no place shall hereafter be incorporated with the privilege of electing a Representative, unless there are within the same one hundred and fifty rateable polls.

AND the House of Representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this Constitution.

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THE expences of travelling to the General Assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury; to every member who shall attend as seasonably as he can, in the judgment of the House, and does not depart without leave.

III. EVERY member of the House of Representatives shall be chosen by written votes; and for one year at least next preceeding his election, shall have been an inhabitant of, and have been seized in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent; or any rateable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.

IV. EVERY male person, being twenty-one years of age, and resident in any particular town in this Commonwealth for the space of one year next preceeding, having a freehold estate within the same town, of the annual income of three pounds; or any estate of the value of sixty pounds, shall have a right to vote in the choice of a Representative or Representatives for the said town.

V. THE members of the House of Representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.

VI. THE House of Representatives shall be the Grand Inquest of this Commonwealth; and all impeachments made by them, shall be heard and tried by the Senate.

VII. ALL money-bills shall originate in the House of Representatives; but the Senate may propose

these or concur with amendments, as on other Bills.

VIII. THE House of Representatives shall have power to adjourn themselves ; provided such adjournment shall not exceed two days at a time.

IX. NOT less than sixty members of the House of Representatives, shall constitute a quorum for doing business.

X. THE House of Representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution ; shall chuse their own Speaker ; appoint their own officers, and settle the rules and orders of proceeding in their own house : They shall have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the House, by any disorderly, or contemptuous behaviour, in its presence ; or who, in the town where the General Court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the House ; or who shall assault any of them therefor ; or who shall assault, or arrest, any witness, or other person, ordered to attend the House, in his way in going, or returning ; or who shall rescue any person arrested by the order of the House.

AND no member of the House of Representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending, the General Assembly.

XI. THE Senate shall have the same powers in the like cases ; and the Governor and Council shall have the same authority to punish in like cases. Provided

Provided that no imprisonment on the ~~order~~ order of the Governor, Council, Senate, or House of Representatives, for either of the above-described offences, be for a term exceeding thirty days.

AND the Senate and House of Representatives may try, and determine, all cases where their rights and privileges are concerned, and which, by the Constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

C H A P T E R II.

Executive Power.

S E C T I O N I.

GOVERNOR.

Art. **T**HERE shall be a supreme executive Magistrate, who shall be stiled, **THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS**; and whose title shall be—**HIS EXCELLENCY**.

II. **T**HE Governor shall be chosen annually: And no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceeding; and unless he shall, at the same time, be seized in his own right, of a freehold within the Commonwealth, of the value of one thousand pounds; and unless he shall declare himself to be of the christian religion.

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III. **T**HOSE

III. THOSE persons who shall be qualified to vote for Senators and Representatives within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April annually, give in their votes for a Governor, to the Selectmen, who shall preside at such meetings ; and the Town-Clerk, in the presence and with the assistance of the Selectmen, shall, in open town-meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name ; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting ; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the Selectmen, and transmit the same to the Sheriff of the county, thirty days at least before the last Wednesday in May ; and the Sheriff shall transmit the same to the Secretary's office seventeen days at least before the said last Wednesday in May ; or the Selectmen may cause returns of the same to be made to the office of the Secretary of the Commonwealth seventeen days at least before the said day ; and the Secretary shall lay the same before the Senate and the House of Representatives, on the last Wednesday in May, to be by them examined : And in case of an election by a majority of all the votes returned, the choice shall be by them declared and published : But if no person shall have a majority of votes, the House of Representatives shall, by ballot, elect two out of four persons who had the highest numbers of votes, if so many shall have been voted for ; but, if otherwise, out of the number voted for ; and make re-

turn to the Senate of the two persons so elected ; on which, the Senate shall proceed, by ballot, to elect one, who shall be declared Governor.

IV. THE Governor shall have authority, from time to time, at his discretion, to assemble and call together the Counsellors of this Commonwealth for the time being ; and the Governor, with the said Counsellors, or five of them at least, shall, and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, agreeably to the Constitution and the laws of the land.

V. THE Governor, with advice of Council, shall have full power and authority, during the session of the General Court, to adjourn or prorogue the same to any time the two Houses shall desire ; and to dissolve the same on the day next preceeding the last Wednesday in May ; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess ; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same : And in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the State.

AND the Governor shall dissolve the said General Court on the day next preceeding the last Wednesday in May.

VI. In cases of disagreement between the two Houses,

Houses, with regard to the necessity, or time of adjournment, or prorogation, the Governor, with advice of the Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days, as he shall determine the public good shall require.

VII. THE Governor of this Commonwealth for the time being, shall be the commander in chief of the army and navy, and of all the military forces of the State, by sea and land; and shall have full power by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprizes and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner attempt or enterprize the destruction, invasion, detriment, or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade, or attempt

tempt the invading, conquering, or annoying this Commonwealth ; and that the Governor be intrusted with all these and other powers, incident to the offices of Captain-General and Commander in Chief, and Admiral, to be exercised agreeably to the rules and regulations of the Constitution, and the laws of the land, and not otherwise.

PROVIDED, that the said Governor shall not, at any time hereafter, by virtue of any power by this Constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court ; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the State, to which they cannot otherwise conveniently have access.

VIII. THE power of pardoning offences, except such as persons may be convicted of before the Senate by an impeachment of the House, shall be in the Governor, by and with the advice of Council : But no charter of pardon, granted by the Governor, with advice of the Council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence, or offences intended to be pardoned.

IX. ALL judicial officers, the Attorney-General, the Solicitor-General, all Sheriffs, Coroners, and Registers of Probate, shall be nominated and appointed by the Governor, by and with the advice and consent of the Council ; and every such nomination shall be made by the Governor, and made seven days prior to such appointment.

X. THE

X. THE Captains and subalterns of the militia, shall be elected by the written votes of the train-band and alarm list of their respective companies, of twenty-one years of age and upwards : The field-officers of regiments, shall be elected by the written votes of the Captains and subalterns of their respective regiments : The Brigadiers shall be elected in like manner, by the field-officers of their respective brigades : And such officers, so elected, shall be commissioned by the Governor, who shall determine their rank.

THE Legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the Governor the officers elected.

THE Major-Generals shall be appointed by the Senate and House of Representatives, each having a negative upon the other ; and be commissioned by the Governor.

AND if the electors of Brigadiers, field-officers, Captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the Governor, with advice of Council, shall appoint suitable persons to fill such offices.

AND no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the Governor, or by fair trial in court-martial, pursuant to the laws of the Commonwealth for the time being.

THE commanding officers of regiments shall appoint their Adjutants and Quarter-masters ; the Brigadiers their Brigade-Majors ; and the Major-Generals their Aids ; and the Governor shall appoint the Adjutant-General.

THE

THE Governor, with advice of Council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this Commonwealth shall appoint,—as also all officers of forts and garrisons.

THE divisions of the militia into brigades regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this Commonwealth, until the same shall be altered in pursuance of some future law.

XI. No monies shall be issued out of the treasury of this Commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or Treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the Governor for the time being, with the advice and consent of the Council, for the necessary defence and support of the Commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the General Court.

XII. ALL public boards, the Commissary-General, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months officially and without requisition, and at other times, when required by the Governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively ;
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distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the said commanding officer shall exhibit to the Governor, when required by him, true and exact plans of such forts, and of the land and sea or harbour or harbours adjacent.

AND the said boards; and all public officers, shall communicate to the Governor, as soon as may be after receiving the same, all letters, dispatches, and intelligences of a public nature, which shall be directed to them respectively.

XIII. As the public good requires that the Governor should not be under the undue influence of any of the members of the General Court, by a dependance on them for his support—that he should in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—& that he should maintain the dignity of the Commonwealth in the character of its chief magistrate—it is necessary that he should have an honorable stated salary, of a fixed & permanent value, amply sufficient for those purposes, & established by standing laws: And it shall be among the first acts of the General Court, after the commencement of this Constitution, to establish such salary by law accordingly.

PERMANENT and honorable salaries shall also be established by law for the Justices of the supreme judicial court.

AND if it shall be found, that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged as the General Court shall judge proper.

C H A P T E R II.

S E C T I O N II.

Lieutenant-Governor.

Art. **T**HERE shall be annually elected a Lieutenant-Governor of the Commonwealth of Massachusetts, whose title shall be **HIS HONOR**—and who shall be qualified, in point of religion, property; and residence in the Commonwealth, in the same manner with the Governor: And the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner: And if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to be elected, in case no one person shall have a majority of the votes of the people to be Governor.

II. THE Governor, and in his absence the Lieutenant-Governor, shall be President of the Council, but shall have no vote in Council: And the Lieutenant-Governor shall always be a member of the Council, except when the chair of the Governor shall be vacant.

III. WHENEVER the chair of the Governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the Lieutenant-Governor, for the time being, shall, during such

vacancy, perform all the duties incumbent upon the Governor, and shall have and exercise all the powers and authorities, which by this Constitution the Governor is vested with, when personally present.

CHAPTER II.

SECTION III.

Council, and the Manner of settling Elections by the Legislature.

Art. **T**HERE shall be a Council for advising the

I. **T**he Governor in the executive part of government, to consist of nine persons besides the Lieutenant-Governor, whom the Governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

II. **NINE** Counsellors shall be annually chosen from among the persons returned for Counsellors and Senators, on the last Wednesday in May, by the joint ballot of the Senators and Representatives assembled in one room: And in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the Council, the deficiency shall be made up by the electors
afore said

atorsaid from among the people at large ; and the number of Senators left shall constitute the Senate for the year. The seats of the persons thus elected from the Senate, and accepting the trust, shall be vacated in the Senate.

III. THE Counsellors, in the civil arrangements of the Commonwealth, shall have rank next after the Lieutenant-Governor.

IV. NOT more than two Counsellors shall be chosen out of any one district of this Commonwealth.

V. THE resolutions and advice of the Council shall be recorded in a register, and signed by the members present ; and this record may be called for at any time by either House of the legislature ; and any member of the Council may insert his opinion contrary to the resolution of the majority.

VI. WHENEVER the office of the Governor and Lieutenant-Governor shall be vacant, by reason of death, absence, or otherwise, then the Council or the major part of them, shall, during such vacancy, have full power and authority, to do, and execute, all and every such acts, matters and things, as the Governor or the Lieutenant-Governor might or could, by virtue of this Constitution, do or execute, if they, or either of them, were personally present.

VII. AND whereas the elections appointed to be made by this Constitution, on the last Wednesday in May annually, by the two Houses of the legislature, may not be compleated on that day, the said elections may be adjourned from day to day until the same shall be compleated. And the order of elections shall be as follows ; the vacancies in these-

Senate,

nate, if any, shall first be filled up ; the Governor and Lieutenant-Governor shall then be elected, provided there should be no choice of them by the people : And afterwards the two Houses shall proceed to the election of the Council.

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, &c.

Art. I. **T**HE Secretary, Treasurer and Receiver-General, and the Commissary-General, Notaries-Public, and Naval-Officers, shall be chosen annually, by joint ballot of the Senators and Representatives in one room. And that the citizens of this Commonwealth may be assured, from time to time, that the monies remaining in the public Treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as Treasurer and Receiver-General more than five years successively.

II. **T**HE records of the Commonwealth shall be kept in the office of the Secretary, who may appoint his Deputies, for whose conduct he shall be accountable, and he shall attend the Governor and Council, the Senate and House of Representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

Judiciary Power.

Art. I. **T**HE tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duely appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this Constitution: Provided nevertheless, the Governor, with consent of the Council, may remove them upon the address of both Houses of the Legislature.

II. EACH branch of the Legislature, as well as the Governor and Council, shall have authority to require the opinions of the Justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

III. IN order that the people may not suffer from the long continuance in place of any Justice of the Peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of Justices of the Peace shall expire and become void, in the term of seven years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the Commonwealth.

IV. The Judges of Probate of Wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require. And the
Legislature

Legislature shall, from time to time, hereafter appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective Judges shall direct.

V. ALL causes of marriage divorce and alimony, and all appeals from the Judges of Probate shall be heard and determined by the Governor and Council until the Legislature shall, by law, make other provision.

C H A P T E R IV.

Delegates to Congress.

THE delegates of this Commonwealth to the Congress of the United States, shall, sometime in the month of June annually, be elected by the joint ballot of the Senate and House of Representatives, assembled together in one room; to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the Governor, and the great seal of the Commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

C H A P T E R V.

The University at Cambridge, and Encouragement of Literature, &c.

S E C T I O N I.

The University.

Art. **W**HEREAS our wise and pious ancestors,
 I. so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard-College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences, which qualified them for public employments, both in Church and State : And whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the christian religion, and the great benefit of this and the other United States of America—It is declared, That the PRESIDENT AND FELLOWS OF HARVARD-COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy : And the same are hereby ratified and confirmed unto them, the said President and Fellows of Harvard-College, and to their successors, and to their officers and servants, respectively, forever.

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II. AND

II. AND whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattles, legacies and conveyances, heretofore made, either to Harvard-College in Cambridge, in New-England, or to the President and Fellows of Harvard-College, or to the said College, by some other description, under several charters successively : IT IS DECLARED, That all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the President and Fellows of Harvard-College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

III. AND whereas by an act of the General Court of the Colony of Massachusetts-Bay, passed in the year one thousand six hundred and forty-two, the Governor and Deputy-Governor, for the time being, and all the magistrates of that jurisdiction, were, with the President, and a number of the clergy in the said act described, constituted the Overseers of Harvard-College : And it being necessary, in this new Constitution of Government, to ascertain who shall be deemed successors to the said Governor, Deputy-Governor and Magistrates : IT IS DECLARED, That the Governor, Lieutenant-Governor, Council and Senate of this Commonwealth, are, and shall be deemed, their successors ; who, with the President of Harvard-College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and
Dorchester.

Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the Overseers of Harvard-College; PROVIDED, that nothing herein shall be construed to prevent the Legislature of this Commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the Legislature of the late Province of the Massachusetts-Bay.

C H A P T E R V.

S E C T I O N II.

The Encouragement of Literature, &c.

WISDOM, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislators and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of

agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humour, and all social affections, and generous sentiments among the people.

C H A P T E R VI.

Oaths and Subscriptions; Incompatibility of and Exclusion from Offices; Pecuniary Qualifications; Commissions; Writs; Confirmation of Laws; Habeas Corpus; The Enacting Stile; Continuance of Officers; Provision for a future Revival of the Constitution, &c.

Art. **A**NY person chosen Governor, Lieutenant-Governor, Counsellor, Senator, or Representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.—

as proposed
 “I, A. B. do declare, that I believe the christian religion, and have a firm persuasion of its truth; and that I am seized and possessed, in my own right, of the property required by the Constitution as one qualification for the office or place to which I am elected.” **AND**

AND the Governor, Lieutenant-Governor, and Counsellors, shall make and subscribe the said declaration, in the presence of the two Houses of Assembly ; and the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution, and forever afterwards before the Governor and Council for the time being.

AND every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.—

“ I, A. B. do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign and independent State ; and I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traiterous conspiracies and all hostile attempts whatsoever : And that I do renounce and abjure all allegiance, subjection and obedience to the King, Queen or Government of Great-Britain, (as the case may be) and every other foreign power whatsoever : And that no foreign Prince, Person, Prelate, State or Potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil ecclesiastical or spiritual, within this Commonwealth ; except the authority and power which is or may be vested by their Constituents in the Congress

gress of the United States : And I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration or affirmation ; and that I do make this acknowledgement, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever.

So help me GOD."

" I, A. B. do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as ; according to the best of my abilities and understanding, agreeably to the rules and regulations of the Constitution, and the laws of this Commonwealth."

" So help me GOD."

PROVIDED always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration,*" in the first oath ; and in the second oath, the words "*swear and ;*" and in each of them the words "*So help me G O D ;*" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

AND the said oaths or affirmations shall be taken and subscribed by the Governor, Lieutenant-Governor, and Counsellors, before the President of the Senate, in the presence of the two Houses of Assembly ;

Assembly ; and by the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution ; and forever afterwards before the Governor and Council for the time being : And by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the Legislature.

II. No Governor, Lieutenant-Governor, or Judge of the supreme judicial court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this Constitution they are admitted to hold, saving that the Judges of the said court may hold the offices of Justices of the Peace through the State ; nor shall they hold any other place or office, or receive any pension or salary from any other State or Government or Power whatever.

No person shall be capable of holding or exercising at the same time, more than one of the following offices within this State, viz.—Judge of Probate—Sheriff—Register of Probate—or Register of Deeds—and never more than any two offices which are to be held by appointment of the Governor, or the Governor and Council, or the Senate, or the House of Representatives, or by the election of the people of the State at large, or of the people of any county, military offices and the offices of Justices of the Peace excepted, shall be held by one person.

No person holding the office of Judge of the supreme judicial court—Secretary—Attorney-General—Sollicitor-General—Treasurer or Receiver-General

General—Judge of Probate—Commiffary-General—President, Profeflor, or Inftitutor of Harvard-College—Sheriff—Clerk of the Houfe of Representatives—Register of Probate—Register of Deeds—Clerk of the Supreme Judicial Court—Clerk of the Inferior Court of Common Pleas—or Officer of the Customs, including in this description Naval-Officers—fhall at the fame time have a feat in the Senate or Houfe of Representatives ; but their being chosen or appointed to, & accepting the fame, fhall operate as a refignation of their feat in the Senate or Houfe of Representatives ; and the place fo vacated fhall be filled up.

AND the fame rule fhall take place in cafe any Judge of the faid Supreme Judicial Court, or Judge of Probate, fhall accept a feat in Council ; or any Counfellor fhall accept of either of thofe offices or places.

AND no perfon fhall ever be admitted to hold a feat in the Legislature, or any office of truft or importance under the government of this Commonwealth, who fhall, in the due courfe of law, have been convicted of bribery or corruption in obtaining an election or appointment.

III. IN all cafes where fums of money are mentioned in this Conftitution, the value thereof fhall be computed in filver at fix fhillings and eight pence per ounce : And it fhall be in the power of the Legislature from time to time to increafe fuch qualifications, as to property, of the perfons to be elected to offices, as the circumftances of the Commonwealth fhall require.

IV. ALL commissions shall be in the name of the Commonwealth of Massachusetts, signed by the Governor and attested by the Secretary or his Deputy, and have the great seal of the Commonwealth affixed thereto.

V. ALL writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts : They shall be under the seal of the court from whence they issue : They shall bear test of the first Justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

VI. ALL the laws which have heretofore been adopted, used and approved in the Province, Colony or State of Massachusetts-Bay, and usually practiced on in the courts of law, shall still remain and be in full force, until altered or repealed by the Legislature ; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution.

VII. THE privilege and benefit of the writ of habeas corpus shall be enjoyed in this Commonwealth in the most free, easy, cheap, expeditious and ample manner ; and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time not exceeding twelve months.

VIII. THE enacting stile, in making and passing all acts, statutes and laws, shall be—" Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same."

IX. To the end there may be no failure of justice or danger arise to the Commonwealth from a change of the Form of Government—all officers, civil and military, holding commissions under the government & people of Massachusetts-Bay in New England, and all other officers of the said government and people, at the time this Constitution shall take effect, shall have, hold, use, exercise and enjoy all the powers and authority to them granted or committed, until other persons shall be appointed in their stead: And all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority; until the General Court and the supreme and executive officers under this Constitution are designated and invested with their respective trusts, powers and authority.

X. IN order the more effectually to adhere to the principles of the Constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary—the General Court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the Selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations for the purpose of collecting their sentiments on the necessity or expediency of revising the Constitution, in order to amendments.

AND if it shall appear by the returns made, that two thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favour of such revision or amendment, the General Court shall issue precepts, or direct them to be issued from the Secretary's office to the several towns to elect delegates to meet in Convention for the purpose aforesaid.

THE said delegates to be chosen in the same manner and proportion as their Representatives in the second branch of the Legislature are by this Constitution to be chosen.

XI. THIS form of government shall be enrolled on parchment and deposited in the Secretary's office, and be a part of the laws of the land—and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

JAMES BOWDOIN, *President.*

Attest.

SAMUEL BARRETT, *Secretary.*

IN CONVENTION.

March 2, 1780.

RESOLVED, That this Convention be adjourned to the first Wednesday in June next, to meet at Boston; and that Eighteen hundred Copies of the Form of Government which shall be agreed upon be printed; and, including such as shall be ordered to each Member of the Convention, be sent to the Selectmen of each Town and the Committees of each Plantation, under the direction of a Committee to be appointed for the purpose: And that they be requested as soon as may be to lay them before the Inhabitants of their respective Towns and Plantations. And if the major part of the Inhabitants of the said Towns and Plantations disapprove of any particular Part of the same, that they be desired to state their Objections distinctly and the Reasons therefor: And the Selectmen and Committees aforesaid are desired to transmit the same to the Secretary of the Convention on the first Wednesday in June, or if may be, on the last Wednesday in May, in order to his laying the same before a Committee to be appointed for the purpose of examining and arranging them for the revision and consideration of the Convention at the Adjournment; with the Number of Voters in the said Town and Plantation Meetings, on each side of every Question; in
order

order that the said Convention, at the Adjournment, may collect the general sense of their Constituents on the several Parts of the proposed Constitution: And if there doth not appear to be two thirds of their Constituents in favour thereof, that the Convention may alter it in such a manner as that it may be agreeable to the Sentiments of two thirds of the Voters throughout the State.

Resolved, That it be recommended to the Inhabitants of the several Towns and Plantations in this State, to empower their Delegates at the next Session of this Convention, to agree upon a Time when this Form of Government shall take Place, without returning the same again to the People: *Provided* that two thirds of the Male Inhabitants of the Age of twenty one years and upwards, voting in the several Town and Plantation Meetings shall agree to the same, or the Convention shall conform it to the Sentiments of two thirds of the People as aforesaid.

Resolved, That the Towns and Plantations thro' this State have a Right to choose other Delegates, instead of the present Members, to meet in Convention on the first Wednesday in June next, if they see fit.

A true Copy, Attest.

SAMUEL BARRETT, Secretary.

Moses Wheelock's

Book 1790

Col. Moses Wheelock His

Property March 20th 1791 &

Reviews of Constitutional
Conventions and
of Constitution of 1780,